

methodology used in the risk assessment (§236.913(g)(2)(vii)) shall apply only to the extent that a comparative risk assessment was required. To the extent practicable, FRA makes this determination not later than review of the PTCIP and the accompanying PTCDP or PTCSP. If an independent assessment is required, the assessment may apply to the entire system or a designated portion of the system.

(b) If a PTC system is to undergo an independent assessment in accordance with this section, the host railroad may submit to the Associate Administrator a written request that FRA confirm whether a particular entity would be considered an independent third party pursuant to this section. The request should include supporting information identified in paragraph (c) of this section. FRA may request further information to make a determination or provide its determination in writing.

(c) As used in this section, “independent third party” means a technically competent entity responsible to and compensated by the railroad (or an association on behalf of one or more railroads) that is independent of the PTC system supplier and vendor. An entity that is owned or controlled by the supplier or vendor, that is under common ownership or control with the supplier or vendor, or that is otherwise involved in the development of the PTC system is not considered “independent” within the meaning of this section.

(d) The independent third-party assessment shall, at a minimum, consist of the activities and result in the production of documentation meeting the requirements of Appendix F to this part, unless excepted by this part or by FRA order or waiver.

(e) Information provided that has been certified under the auspices of a foreign railroad regulatory entity recognized by the Associate Administrator may, at the Associate Administrator’s discretion, be accepted as having been independently verified.

#### §236.1019 Main line track exceptions.

(a) *Scope and procedure.* This section pertains exclusively to exceptions from the rule that trackage over which scheduled intercity and commuter pas-

senger service is provided is considered main line track requiring installation of a PTC system. One or more intercity or commuter passenger railroads, or freight railroads conducting joint passenger and freight operation over the same segment of track may file a main line track exclusion addendum (“MTEA”) to its PTCIP requesting to designate track as not main line subject to the conditions set forth in paragraphs (b) or (c) of this section. No track shall be designated as yard or terminal unless it is identified in an MTEA that is part of an FRA approved PTCIP.

(b) *Passenger terminal exception.* FRA will consider an exception in the case of trackage used exclusively as yard or terminal tracks by or in support of regularly scheduled intercity or commuter passenger service where the MTEA describes in detail the physical boundaries of the trackage in question, its use and characteristics (including track and signal charts) and all of the following apply:

(1) The maximum authorized speed for all movements is not greater than 20 miles per hour, and that maximum is enforced by any available onboard PTC equipment within the confines of the yard or terminal;

(2) Interlocking rules are in effect prohibiting reverse movements other than on signal indications without dispatcher permission; and

(3) Either of the following conditions exists:

(i) No freight operations are permitted; or

(ii) Freight operations are permitted but no passengers will be aboard passenger trains within the defined limits.

(c) *Limited operations exception.* FRA will consider an exception in the case of a track segment used for limited operations (at speeds not exceeding those permitted under §236.0 of this part) under one of the following sets of conditions:

(1) The trackage is used for limited operations by at least one passenger railroad subject to at least one of the following conditions:

(i) All trains are limited to restricted speed;

(ii) Temporal separation of passenger and other trains is maintained as provided in paragraph (e) of this section; or

(iii) Passenger service is operated under a risk mitigation plan submitted by all railroads involved in the joint operation and approved by FRA. The risk mitigation plan must be supported by a risk assessment establishing that the proposed mitigations will achieve a level of safety not less than the level of safety that would obtain if the operations were conducted under paragraph (c)(1) or (c)(2) of this section.

(2) Passenger service is operated on a segment of track of a freight railroad that is not a Class I railroad on which less than 15 million gross tons of freight traffic is transported annually and on which one of the following conditions applies:

(i) If the segment is unsignaled and no more than four regularly scheduled passenger trains are operated during a calendar day, or

(ii) If the segment is signaled (e.g., equipped with a traffic control system, automatic block signal system, or cab signal system) and no more than 12 regularly scheduled passenger trains are operated during a calendar day.

(3) Not more than four passenger trains per day are operated on a segment of track of a Class I freight railroad on which less than 15 million gross tons of freight traffic is transported annually.

(d) A limited operations exception under paragraph (c) is subject to FRA review and approval. FRA may require a collision hazard analysis to identify hazards and may require that specific mitigations be undertaken. Operations under any such exception shall be conducted subject to the terms and conditions of the approval. Any main line track exclusion is subject to periodic review.

(e) *Temporal separation.* As used in this section, temporal separation means that limited passenger and freight operations do not operate on any segment of shared track during the same period and also refers to the processes or physical arrangements, or both, in place to ensure that temporal separation is established and maintained at all times. The use of exclu-

sive authorities under mandatory directives is not, by itself, sufficient to establish that temporal separation is achieved. Procedures to ensure temporal separation shall include verification checks between passenger and freight operations and effective physical means to positively ensure segregation of passenger and freight operations in accordance with this paragraph.

(f) *PTCSP requirement.* No PTCSP—filed after the approval of a PTCIP with an MTEA—shall be approved by FRA unless it attests that no changes, except for those included in an FRA approved RFA, have been made to the information in the PTCIP and MTEA required by paragraph (b) or (c) of this section.

(g) *Designation modifications.* If subsequent to approval of its PTCIP or PTCSP the railroad seeks to modify which track or tracks should be designated as main line or not main line, it shall request modification of its PTCIP or PTCSP, as applicable, in accordance with § 236.1021.

EFFECTIVE DATE NOTE: At 75 FR 59117, Sept. 27, 2010, § 236.1019 was amended by revising the introductory text to paragraph (c), effective November 26, 2010. For the convenience of the user, the revised text is set forth as follows:

**§ 236.1019 Main line track exceptions.**

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(c) *Limited operations exception.* FRA will consider an exception in the case of a track segment used for limited operations (operating in accordance with § 236.0 of this part) under one of the following sets of conditions:

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**§ 236.1020 Exclusion of track segments for implementation due to cessation of PIH materials service or rerouting.**

(a) *Purpose and scope.* This section sets forth the conditions under which track segments identified in the 2008 baseline described in § 236.1005(b)(2) may be removed from the PTCIP. A track segment qualified for removal under this section may be removed after FRA approves a request contained in the PTCIP or an RFA filed prior to the required and scheduled